

**2007 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB176)**

Received: **02/26/2008**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters: **chanaman**

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

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Disciplinary procedures for 1st class city police officers, increasing size of board of police and fire commissioners

**Instructions:**

See Attached. Based on ASA 1 to SB 176 (s0212), but take treatment of s. 62.50 (1) from SSA 1 to SB 390 (s0260), and add in AA ? to ASA 1 to SB 176 (a1186/3)

**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 02/26/2008 chanaman 02/26/2008	kfollett 02/27/2008		_____			
/1			jfrantze 02/27/2008	_____	sbasford 02/27/2008	sbasford 02/27/2008	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	mshovers 02/28/2008	kfollett 02/28/2008	jfrantze 02/28/2008	_____	cduerst 02/28/2008	cduerst 02/28/2008	

FE Sent For:

**<END>**

**2007 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB176)**

Received: **02/26/2008**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **Andrew**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters: **chanaman**

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

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Disciplinary procedures for 1st class city police officers, increasing size of board of police and fire commissioners

---

**Instructions:**

See Attached. Based on ASA 1 to SB 176 (s0212), but take treatment of s. 62.50 (1) from SSA 1 to SB 390 (s0260), and add in AA ? to ASA 1 to SB 176 (a1186/3)

---

**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 02/26/2008 chanaman 02/26/2008	kfollett 02/27/2008 <i>12/15/f</i> <i>2/28</i>		_____			
/1			jfrantze 02/27/2008	_____	sbasford 02/27/2008	sbasford 02/27/2008	

*12 MES 2/28/08 to Self 2/28/08*

FE Sent For:

**<END>**

2007 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-SB176)

Received: 02/26/2008

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Garey Bies (608) 266-5350

By/Representing: Andrew

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters: chanaman

Subject: Local Gov't - 1st class cities

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disciplinary procedures for 1st class city police officers, increasing size of board of police and fire commissioners

Instructions:

See Attached. Based on ASA 1 to SB 176 (s0212), but take treatment of s. 62.50 (1) from SSA 1 to SB 390 (s0260), and add in AA ? to ASA 1 to SB 176 (a1186/3) *use all of s0260 - per Andrew*

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>
1/2	mshovers	<i>1/15/08</i>	<i>2/27</i>	<i>2/27</i>			
1/1	NES	<i>2/26/08</i>	<i>2/27</i>	<i>2/27</i>			

FE Sent For:

<END>

Andrew

Bills - sub to SB176

- ① take/sub to 390 lang. re: PFC:  
     ↳ 462.50 (1) - use all of 50260 in  
     ↳ 50260           \*           the new sub.
- ② add in a 1186/3 to the sub.
- ③ USE ASA 1 as base document  
     (50212)



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0311/1  
MES&CMH:kjf&bjk:jf

ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 SENATE BILL 176

1     **AN ACT** *to renumber and amend* 62.50 (1) and 62.50 (18); *to amend* 62.50 (13),  
2     62.50 (14), 62.50 (16), 62.50 (17) (a) and 62.50 (19); and *to create* 62.50 (1e) and  
3     62.50 (18) (b) of the statutes; **relating to:** payment of a 1st class city police  
4     officer's salary after discharge or suspension, the adjournment of a trial or  
5     investigation relating to charges brought against such an officer, disciplinary  
6     procedures for a 1st class city police officer, increasing the size of the city of  
7     Milwaukee Board of Fire and Police Commissioners, and authorizing a panel  
8     of the board to handle certain cases.

---

***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 discharged or suspended without pay or benefits until the matter that is the subject of the discharge or suspension 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.

1 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years if the board has 7 members, and  
2 2 to hold 4 years if the board has 9 members, and one to hold 5 years if the board has  
3 7 members, and 2 to hold 5 years if the board has 9 members, and until their  
4 respective successors shall be appointed and qualified. Thereafter the terms of office  
5 shall be 5 years from the 2nd Monday in July, and until a successor is appointed and  
6 qualified. The mayor may reduce the size of the board from 9 to 7 members by failing  
7 to appoint 2 successors for individuals whose terms expire at the same time. Every  
8 person appointed a member of the board shall be subject to confirmation by the  
9 common council and every appointed member shall, before entering upon the duties  
10 of the office take and subscribe the oath of office prescribed by article IV, section 28,  
11 of the constitution, and file the same duly certified by the officer administering it,  
12 with the clerk of the city. Not later than the first day of the 7th month beginning after  
13 a member appointed by the mayor is confirmed by the common council, the member  
14 shall enroll in a training class that is related to the mission of the board and, not later  
15 than the first day of the 13th month beginning after a member appointed by the  
16 mayor is confirmed by the common council, the member shall complete the class. The  
17 training class shall be conducted by the city. Appointments made prior to the time  
18 this subchapter first applies to a 1st class city shall not be subject to confirmation by  
19 the common council.

20 **SECTION 2.** 62.50 (1e) of the statutes is created to read:

21 62.50 (1e) DEFINITION. In this section, "offense" means any felony or Class A  
22 or Class B misdemeanor violation of any of the following:

23 (a) Chapters 940 and 941.

24 (b) Section 942.08.

25 (c) Section 942.09.

1 (d) Chapters 943 to 948.

2 **SECTION 3.** 62.50 (13) of the statutes is amended to read:

3 62.50 (13) The chief discharging or suspending for a period exceeding 5 days  
4 any member of the force shall give written notice of the discharge or suspension to  
5 the member and, at the same time that the notice is given, and shall also give the  
6 member any exculpatory evidence in the chief's possession related to the discharge  
7 or suspension. The chief shall also immediately report the same notice of the  
8 discharge or suspension to the secretary of the board of fire and police commissioners  
9 together with a complaint setting forth the reasons for the discharge or suspension  
10 and the name of the complainant if other than the chief. Within 10 days after the date  
11 of service of the notice of a discharge or suspension order the members so discharged  
12 or suspended may appeal from the order of discharge or suspension or discipline to  
13 the board of fire and police commissioners, by filing with the board a notice of appeal  
14 in the following or similar form:

15 To the honorable board of fire and police commissioners:

16 Please take notice that I appeal from the order or decision of the chief of the ....  
17 department, discharging (or suspending) me from service, which order of discharge  
18 (or suspension) was made on the ... day of ..., ... (year).

19 **SECTION 4.** 62.50 (14) of the statutes is amended to read:

20 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
21 within 5 days, serve the appellant with a copy of the complaint and a notice fixing  
22 the time and place of trial, which time of trial may not be less than 5 60 days nor more  
23 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

24 **SECTION 5.** 62.50 (16) of the statutes is amended to read:

1           62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the  
2 chief ~~shall have the right to~~ an adjournment of the trial or investigation of the  
3 charges, for cause, not to exceed 15 days. In the course of any trial or investigation  
4 under this section each member of the fire and police commission may administer  
5 oaths, secure by its subpoenas both the attendance of witnesses and the production  
6 of records relevant to the trial and investigation, and compel witnesses to answer and  
7 may punish for contempt in the same manner provided by law in trials before  
8 municipal judges for failure to answer or to produce records necessary for the trial.  
9 The trial shall be public and all witnesses shall be under oath. The accused shall  
10 have full opportunity to be heard in defense and shall be entitled to secure the  
11 attendance of all witnesses necessary for the defense at the expense of the city. The  
12 accused may appear in person and by attorney. The city in which the department is  
13 located may be represented by the city attorney. All evidence shall be taken by a  
14 stenographic reporter who first shall be sworn to perform the duties of a stenographic  
15 reporter in taking evidence in the matter fully and fairly to the best of his or her  
16 ability.

17           **SECTION 6.** 62.50 (17) (a) of the statutes is amended to read:

18           62.50 (17) (a) Within 3 days after hearing the matter the board, or a 3-member  
19 panel of the board, shall, by a majority vote of its members and subject to par. (b),  
20 determine whether by a preponderance of the evidence the charges are sustained.  
21 If the board or panel determines that the charges are sustained, the board shall at  
22 once determine whether the good of the service requires that the accused be  
23 permanently discharged or be suspended without pay for a period not exceeding 60  
24 days or reduced in rank. If the charges are not sustained the accused shall be  
25 immediately reinstated in his or her former position, without prejudice. The decision

1 and findings of the board, or panel, shall be in writing and shall be filed, together with  
2 a transcript of the evidence, with the secretary of the board.

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

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

12 **SECTION 8.** 62.50 (18) (b) of the statutes is created to read:

13 62.50 (18) (b) Following a discharge or suspension under sub. (11) or (13), no  
14 member of the police force is entitled to any salary or wages from the department  
15 pending an appeal of the discharge or suspension to the board of fire and police  
16 commissioners if charges relating to an offense are also pending against the member  
17 and such charges arose out of the same conduct or incident that serves as the basis  
18 for the discharge or suspension. If the charges against the officer are dismissed, or  
19 if the officer is found not guilty of the charges, the officer shall be reinstated and  
20 entitled to pay as described in sub. (22).

21 **SECTION 9.** 62.50 (19) of the statutes is amended to read:

22 62.50 (19) CHARGES BY AGGRIEVED PERSON. In cases where duly verified charges  
23 are filed by any aggrieved person with the board of fire and police commissioners,  
24 setting forth sufficient cause for the removal of any member of either of the  
25 departments, including the chiefs or their assistants, the board or chief may suspend

1 such member or officer pending disposition of such charges. The board shall cause  
2 notice of the filing of the charges with a copy to be served upon the accused and shall  
3 set a date for the trial and investigation of the charges, following the procedure under  
4 this section. The board, or a 3-member panel of the board, shall decide by a majority  
5 vote and subject to the just cause standard described in sub. (17) (b) whether the  
6 charges are sustained. If sustained, the board shall immediately determine whether  
7 the good of the service requires that the accused be removed, suspended from office  
8 without pay for a period not exceeding 60 days or reduced in rank. If the charges are  
9 not sustained, the accused shall be immediately reinstated without prejudice. The  
10 secretary of the board shall make the decision public.

11 **SECTION 10. Nonstatutory provisions.**

12 (1) On the effective date of this subsection the mayor of a 1st class city shall  
13 make 2 additional appointments to the board of fire and police commissioners under  
14 section 62.50 (1h) of the statutes, as affected by this act, such that the additional  
15 appointments are for terms that are consistent with the requirements, and with the  
16 terms of the existing commissioners, that are specified under section 62.50 (1h) of the  
17 statutes, as affected by this act.

18 **SECTION 11. Initial applicability.**

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



GCMH 50311/1  
LRB 0212/1  
MES:kjf&bjk:nwn  
RMNK

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 176**

WANTED;  
Wed. a.m.

January 15, 2008 - Offered by COMMITTEE ON CORRECTIONS AND COURTS.

jen

1 **AN ACT to renumber and amend** 62.50 (18); **to amend** 62.50 (1), 62.50 (13),  
2 62.50 (14) and 62.50 (16); and **to create** 62.50 (18) (b) of the statutes; **relating**  
3 **to:** payment of a 1st class city police officer's salary after discharge or  
4 suspension, the adjournment of a trial or investigation relating to charges  
5 brought against such an officer, disciplinary procedures for a 1st class city  
6 police officer, and increasing the size of the city of Milwaukee Board of Fire and  
7 Police Commissioners,

and authorizing a panel of the board to handle certain cases

***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 discharged or suspended without pay or benefits until the matter that is the subject of the discharge or suspension 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

*or Class A or B misdemeanor,*

in the department and is entitled to pay as if he or she was not discharged or suspended. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

Under this substitute amendment, no member of a first class city police force is entitled to any salary or wages from the department pending an appeal to the board of the officer's discharge or suspension if felony criminal charges are also pending against the officer and if the charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension.

Under current law, if a member of the police force or fire department is discharged or suspended by the chief for more than five days, the chief must give the member written notice, and must also notify the board. Within ten days of receiving a notice of his or her discharge or suspension, the member may appeal the chief's action to the board. This substitute amendment requires the chief to give the member, at the same time the member is given written notice of the disciplinary action, any exculpatory evidence in the chief's possession that relates to the discharge or suspension.

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 substitute amendment changes the time frame for scheduling a trial to between 60 and 120 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. Once such a request is made, it is granted automatically. Under the substitute amendment, the board may grant an adjournment, for cause, to either party.

Under current law the board consists of five members. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council.

This substitute amendment increases the number of members on the board to seven, and authorizes the mayor of Milwaukee to appoint two additional members of the board upon the substitute amendment's effective date. The substitute amendment changes the board's quorum requirement from three to four, except in the case of officers who are discharged or suspended, the quorum requirement for a trial of such officers is still three members.

Members of the board who are appointed on or after the effective date of the substitute amendment are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms.

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

*renumbered 62.50 (1h) and*

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

62.50 (1) ORGANIZATION. In all 1st class cities, however incorporated, there shall be a board of fire and police commissioners, consisting of 5 7 citizens, not more than

*INS ANL*

*change component*

*INS 2-3*

~~2 3 of whom shall at any time belong to the same political party. The staff and  
 2 members of the board shall receive the salary or other compensation for their  
 3 services fixed by the common council. The salary shall be fixed at the same time and  
 4 in the same manner as the salary of other city officials and employees. ~~Three~~ Four  
 5 members of the board shall constitute a quorum necessary for the transaction of  
 6 business, except that 3 members of the board shall constitute a quorum necessary  
 7 for a trial under this section. It shall be the duty of the mayor of the city, on or before  
 8 the 2nd Monday in July, to appoint ~~5~~ 7 members of the board, designating the term  
 9 of office of each, one to hold one year, ~~one~~ 2 to hold 2 years, one to hold 3 years, ~~one~~  
 10 2 to hold 4 years and one to hold 5 years, and until their respective successors shall  
 11 be appointed and qualified. Thereafter the terms of office shall be 5 years from the  
 12 2nd Monday in July, and until a successor is appointed and qualified. Every person  
 13 appointed a member of the board shall be subject to confirmation by the common  
 14 council and every appointed member shall, before entering upon the duties of the  
 15 office take and subscribe the oath of office prescribed by article IV, section 28, of the  
 16 constitution, and file the same duly certified by the officer administering it, with the  
 17 clerk of the city. Appointments made prior to the time this subchapter first applies  
 18 to a 1st class city shall not be subject to confirmation by the common council.~~

3-18
FNS
 SECTION 2. 62.50 (13) of the statutes is amended to read:

62.50 (13) The chief discharging or suspending for a period exceeding 5 days  
 any member of the force shall give written notice of the discharge or suspension to  
 the member and, at the same time that the notice is given, and shall also give the  
member any exculpatory evidence in the chief's possession related to the discharge  
or suspension. The chief shall also immediately report the same notice of the  
discharge or suspension to the secretary of the board of fire and police commissioners

1 together with a complaint setting forth the reasons for the discharge or suspension  
2 and the name of the complainant if other than the chief. Within 10 days after the date  
3 of service of the notice of a discharge or suspension order the members so discharged  
4 or suspended may appeal from the order of discharge or suspension or discipline to  
5 the board of fire and police commissioners, by filing with the board a notice of appeal  
6 in the following or similar form:

7 To the honorable board of fire and police commissioners:

8 Please take notice that I appeal from the order or decision of the chief of the ....  
9 department, discharging (or suspending) me from service, which order of discharge  
10 (or suspension) was made on the .... day of ....., .... (year).

11 SECTION 3. 62.50 (14) of the statutes is amended to read:

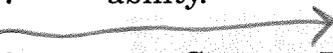
12 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
13 within 5 days, serve the appellant with a copy of the complaint and a notice fixing  
14 the time and place of trial, which time of trial may not be less than 5 60 days nor more  
15 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

16 SECTION 4. 62.50 (16) of the statutes is amended to read:

17 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the  
18 ~~chief shall have the right to~~ an adjournment of the trial or investigation of the  
19 charges, for cause, not to exceed 15 days. In the course of any trial or investigation  
20 under this section each member of the fire and police commission may administer  
21 oaths, secure by its subpoenas both the attendance of witnesses and the production  
22 of records relevant to the trial and investigation, and compel witnesses to answer and  
23 may punish for contempt in the same manner provided by law in trials before  
24 municipal judges for failure to answer or to produce records necessary for the trial.  
25 The trial shall be public and all witnesses shall be under oath. The accused shall

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

INS  
5-7



8 **SECTION 5.** 62.50 (18) of the statutes is renumbered 62.50 (18) (a) and amended  
9 to read:

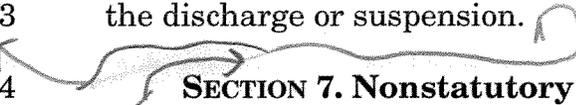
10 62.50 (18) (a) No chief officer of either department or member of the fire  
11 department may be deprived of any salary or wages for the period of time suspended  
12 preceding an investigation or trial, unless the charge is sustained. No Except as  
13 provided in par. (b), no member of the police force may be suspended or discharged  
14 or suspended under sub. (11) or (13) without pay or benefits until the matter that is  
15 the subject of the suspension or discharge or suspension is disposed of by the board  
16 or the time for appeal under sub. (13) passes without an appeal being made.

17 **SECTION 6.** 62.50 (18) (b) of the statutes is created to read:

18 62.50 (18) (b) Following a discharge or suspension under sub. (11) or (13), no  
19 member of the police force is entitled to any salary or wages from the department  
20 pending an appeal of the discharge or suspension to the board of fire and police  
21 commissioners if ~~felony criminal~~ charges <sup>relating to an offense</sup> are also pending against the member and  
22 such charges arose out of the same conduct or incident that serves as the basis for  
23 the discharge or suspension.

INS  
5-23

INS  
5-24



24 **SECTION 7. Nonstatutory provisions.**

1 (1) On the effective date of this subsection the mayor of a 1st class city shall  
 2 make 2 additional appointments to the board of fire and police commissioners under  
 3 section 62.50 (1) of the statutes such that the additional appointments are for terms  
 4 that are consistent with the requirements, and with the terms of the existing  
 5 commissioners, that are specified under section 62.50 (1) of the statutes.

6 **SECTION 8. Initial applicability.**

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

11 (END)

6-3-05

IAS  
6-10

(1h) of the statutes,  
as affected by  
this act

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 390**

February 18, 2008 - Offered by Senators COGGS and CARPENTER.

1 **AN ACT to amend** 62.50 (1), 62.50 (17) (a) and 62.50 (19) of the statutes; **relating**  
2 **to:** increasing the size of the city of Milwaukee Board of Fire and Police  
3 Commissioners and authorizing a panel of the board to decide certain cases.

***Analysis by the Legislative Reference Bureau***

~~Under current law in first class cities (presently only Milwaukee), there is a Board of Fire and Police Commissioners (board) that consists of five members. Three members of the board constitute a quorum and no more than two members may belong to the same political party. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council.~~

This substitute amendment increases the number of members on the board to seven or nine, and authorizes the mayor of Milwaukee to appoint two or four additional members of the board upon the substitute amendment's effective date. Generally, the substitute amendment increases the quorum requirement to four or five members, depending on the size of the board, but the substitute amendment also authorizes a three-member panel of the board to conduct and decide by majority vote disciplinary trials and to hear and decide by majority vote complaints filed by an aggrieved person. Currently, a quorum of the board may conduct such a trial or may hear and rule on such a complaint. The substitute amendment also authorizes the mayor to reduce the size of the board from nine to seven members.

INS  
ANL  
P. 10/2

start of insert NOT

INS  
ANK  
P. 2007

Members of the board who are appointed on or after the effective date of the substitute amendment are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms. The substitute amendment also requires new members of the board to complete a training class that is related to the mission of the board.

END OF INS AND

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

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

62.50 (1) In all 1st class cities, however incorporated, there shall be a board of fire and police commissioners, consisting of 5 either 7 or 9 citizens, not more than 3, if the board has 7 members, or 4, if the board has 9 members, of whom shall at any time belong to the same political party. The staff and members of the board shall receive the salary or other compensation for their services fixed by the common council. The salary shall be fixed at the same time and in the same manner as the salary of other city officials and employees. Three members Except as otherwise provided in this subsection, a majority of the members-elect, as that term is used in s. 59.001 (2m), of the board shall constitute a quorum necessary for the transaction of business. A 3-member panel of the board may conduct, and decide by majority vote, a trial described under sub. (12) or may hear and decide, by majority vote, charges filed by an aggrieved person under sub. (19). It shall be the duty of the mayor of the city, on or before the 2nd Monday in July, to appoint 5 7, or 9, members of the board, designating the term of office of each, one to hold one year, ~~one~~ 2 to hold 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years if the board has 7 members, and 2 to hold 4 years if the board has 9 members, and one to hold 5 years if the board has 7 members, and 2 to hold 5 years if the board has 9 members, and until their respective successors shall be appointed and qualified. Thereafter the terms of office

INS  
2-3  
1-10-07

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

INS  
2-3  
P. 1498

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

shall be 5 years from the 2nd Monday in July, and until a successor is appointed and qualified. The mayor may reduce the size of the board from 9 to 7 members by failing to appoint 2 successors for individuals whose terms expire at the same time. Every person appointed a member of the board shall be subject to confirmation by the common council and every appointed member shall, before entering upon the duties of the office take and subscribe the oath of office prescribed by article IV, section 28, of the constitution, and file the same duly certified by the officer administering it, with the clerk of the city. Not later than the first day of the 7th month beginning after a member appointed by the mayor is confirmed by the common council, the member shall enroll in a training class that is related to the mission of the board and, not later than the first day of the 13th month beginning after a member appointed by the mayor is confirmed by the common council, the member shall complete the class. The training class shall be conducted by the city. Appointments made prior to the time this subchapter first applies to a 1st class city shall not be subject to confirmation by the common council.

end of ins 2-3 ✓

16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 2. 62.50 (17) (a) of the statutes is amended to read:

INS  
5-7  
P. 1498

62.50 (17) (a) Within 3 days after hearing the matter the board, or a 3-member panel of the board, shall, by a majority vote of its members and subject to par. (b), determine whether by a preponderance of the evidence the charges are sustained. If the board or panel determines that the charges are sustained, the board shall at once determine whether the good of the service requires that the accused be permanently discharged or be suspended without pay for a period not exceeding 60 days or reduced in rank. If the charges are not sustained the accused shall be immediately reinstated in his or her former position, without prejudice. The decision

INS  
5-24  
P. 2007

1 and findings of the board, or panel, shall be in writing and shall be filed, together with  
2 a transcript of the evidence, with the secretary of the board.

3 **SECTION 3.** 62.50 (19) of the statutes is amended to read: ✓

4 62.50 (19) CHARGES BY AGGRIEVED PERSON. In cases where duly verified charges  
5 are filed by any aggrieved person with the board of fire and police commissioners,  
6 setting forth sufficient cause for the removal of any member of either of the  
7 departments, including the chiefs or their assistants, the board or chief may suspend  
8 such member or officer pending disposition of such charges. The board shall cause  
9 notice of the filing of the charges with a copy to be served upon the accused and shall  
10 set a date for the trial and investigation of the charges, following the procedure under  
11 this section. The board, or a 3-member panel of the board, shall decide by a majority  
12 vote and subject to the just cause standard described in sub. (17) (b) whether the  
13 charges are sustained. If sustained, the board shall immediately determine whether  
14 the good of the service requires that the accused be removed, suspended from office  
15 without pay for a period not exceeding 60 days or reduced in rank. If the charges are  
16 not sustained, the accused shall be immediately reinstated without prejudice. The  
17 secretary of the board shall make the decision public.

18 **SECTION 4. Nonstatutory provisions.**

19 (1) On the effective date of this subsection, the mayor of a first class city shall  
20 make 2 or 4 additional appointments to the board of fire and police commissioners  
21 under section 62.50 (1) of the statutes such that the additional appointments are for  
22 terms that are consistent with the requirements, and with the terms of the existing  
23 commissioners, that are specified under section 62.50 (1) of the statutes.

24 **SECTION 5. Initial applicability.**

INS  
5-24  
P. 5

INS 6-10 →

1  
2  
3  
4

(1) The treatment of section 62.50 (1) of the statutes, with regard to the training class required of members appointed to the board, first applies to a member who is appointed on the effective date of this subsection.

(1A) ✓

(END)  
of  
INS 6-10

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 SENATE BILL 176**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 1: after "is" insert "renumbered 62.50 (1h) and".

3 **2.** Page 2, line 2: delete "(1)" and substitute "(1h)".

4 **3.** Page 3, line 18: after that line insert:

5 **SECTION 1e.** 62.50 (1e) of the statutes is created to read:

6 62.50 (1e) DEFINITION. In this section, "offense" means any felony or Class A

7 or Class B misdemeanor violation of any of the following:

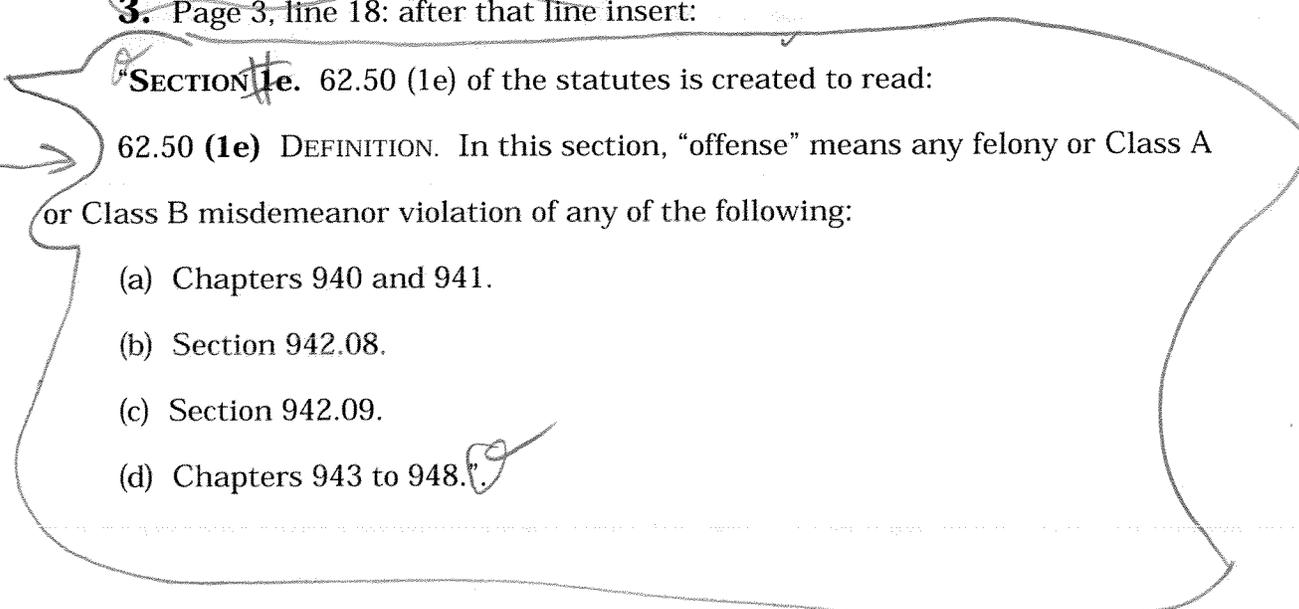
8 (a) Chapters 940 and 941.

9 (b) Section 942.08.

10 (c) Section 942.09.

11 (d) Chapters 943 to 948.

INS  
3-18  
12-10  
II



1 **4.** Page 5, line 21: delete "felony criminal charges" and substitute "charges  
2 relating to an offense".

3 **5.** Page 5, line 23: after "suspension." insert "If the charges against the officer  
4 are dismissed, or if the officer is found not guilty of the charges, the officer shall be  
5 reinstated and entitled to pay as described in sub. (22)".

6 **6.** Page 6, line 3: on lines 3 and 5, delete "(1) of the statutes" and substitute  
7 "(1h) of the statutes, as affected by this act,".

8 (END)

INS  
5-23  
NO#

INS  
6-3



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRBs0311/1  
MES&CMH:kjf&bjk:jf

stays  
RMR

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2007 SENATE BILL 176

Edi;  
LPS;  
see p. 8  
for only  
change

WANTED:  
today

regen

1 AN ACT *to renumber and amend* 62.50 (1) and 62.50 (18); *to amend* 62.50 (13),  
2 62.50 (14), 62.50 (16), 62.50 (17) (a) and 62.50 (19); and *to create* 62.50 (1e) and  
3 62.50 (18) (b) of the statutes; **relating to:** payment of a 1st class city police  
4 officer's salary after discharge or suspension, the adjournment of a trial or  
5 investigation relating to charges brought against such an officer, disciplinary  
6 procedures for a 1st class city police officer, increasing the size of the city of  
7 Milwaukee Board of Fire and Police Commissioners, and authorizing a panel  
8 of the board to handle certain cases.

***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 discharged or suspended without pay or benefits until the matter that is the subject of the discharge or suspension 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 discharged or suspended. Similar provisions apply to a second, third, or fourth class city police officer whose suspension or removal is reversed.

Under this substitute amendment, no member of a first class city police force is entitled to any salary or wages from the department pending an appeal to the board of the officer's discharge or suspension if felony criminal, or Class A or B misdemeanor, charges are also pending against the officer and if the charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension.

Under current law, if a member of the police force or fire department is discharged or suspended by the chief for more than five days, the chief must give the member written notice, and must also notify the board. Within ten days of receiving a notice of his or her discharge or suspension, the member may appeal the chief's action to the board. This substitute amendment requires the chief to give the member, at the same time the member is given written notice of the disciplinary action, any exculpatory evidence in the chief's possession that relates to the discharge or suspension.

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 substitute amendment changes the time frame for scheduling a trial to between 60 and 120 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. Once such a request is made, it is granted automatically. Under the substitute amendment, the board may grant an adjournment, for cause, to either party.

Under current law the board consists of five members. Each member is appointed to a staggered five-year term by the mayor of Milwaukee, subject to confirmation by the Milwaukee Common Council. Three members of the board constitute a quorum and no more than two members may belong to the same political party.

This substitute amendment increases the number of members on the board to seven or nine, and authorizes the mayor of Milwaukee to appoint two or four additional members of the board upon the substitute amendment's effective date. Generally, the substitute amendment increases the quorum requirement to four or five members, depending on the size of the board, but the substitute amendment also authorizes a three-member panel of the board to conduct and decide by majority vote disciplinary trials and to hear and decide by majority vote complaints filed by an aggrieved person. Currently, a quorum of the board may conduct such a trial or may hear and rule on such a complaint. The substitute amendment also authorizes the mayor to reduce the size of the board from nine to seven members.

Members of the board who are appointed on or after the effective date of the substitute amendment are still subject to confirmation by the Milwaukee Common Council and are appointed to five-year terms. The substitute amendment also

requires new members of the board to complete a training class that is related to the mission of the board.

---

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

1           SECTION 1. 62.50 (1) of the statutes is renumbered 62.50 (1h) and amended to  
2 read:

3           62.50 (1h) ORGANIZATION. In all 1st class cities, however incorporated, there  
4 shall be a board of fire and police commissioners, consisting of ~~5~~ either 7 or 9 citizens,  
5 not more than ~~2-3, if the board has 7 members, or 4, if the board has 9 members,~~ of  
6 whom shall at any time belong to the same political party. The staff and members  
7 of the board shall receive the salary or other compensation for their services fixed by  
8 the common council. The salary shall be fixed at the same time and in the same  
9 manner as the salary of other city officials and employees. ~~Three members~~ Except  
10 as otherwise provided in this subsection, a majority of the members-elect, as that  
11 term is used in s. 59.001 (2m), of the board shall constitute a quorum necessary for  
12 the transaction of business. A 3-member panel of the board may conduct, and decide  
13 by majority vote, a trial described under sub. (12) or may hear and decide, by majority  
14 vote, charges filed by an aggrieved person under sub. (19). It shall be the duty of the  
15 mayor of the city, on or before the 2nd Monday in July, to appoint ~~5~~ 7, or 9, members  
16 of the board, designating the term of office of each, one to hold one year, ~~one~~ 2 to hold  
17 2 years, ~~one~~ 2 to hold 3 years, one to hold 4 years if the board has 7 members, and  
18 2 to hold 4 years if the board has 9 members, and one to hold 5 years if the board has  
19 7 members, and 2 to hold 5 years if the board has 9 members, and until their  
20 respective successors shall be appointed and qualified. Thereafter the terms of office  
21 shall be 5 years from the 2nd Monday in July, and until a successor is appointed and

1 qualified. The mayor may reduce the size of the board from 9 to 7 members by failing  
2 to appoint 2 successors for individuals whose terms expire at the same time. Every  
3 person appointed a member of the board shall be subject to confirmation by the  
4 common council and every appointed member shall, before entering upon the duties  
5 of the office take and subscribe the oath of office prescribed by article IV, section 28,  
6 of the constitution, and file the same duly certified by the officer administering it,  
7 with the clerk of the city. Not later than the first day of the 7th month beginning after  
8 a member appointed by the mayor is confirmed by the common council, the member  
9 shall enroll in a training class that is related to the mission of the board and, not later  
10 than the first day of the 13th month beginning after a member appointed by the  
11 mayor is confirmed by the common council, the member shall complete the class. The  
12 training class shall be conducted by the city. Appointments made prior to the time  
13 this subchapter first applies to a 1st class city shall not be subject to confirmation by  
14 the common council.

15 **SECTION 2.** 62.50 (1e) of the statutes is created to read:

16 62.50 (1e) DEFINITION. In this section, "offense" means any felony or Class A  
17 or Class B misdemeanor violation of any of the following:

18 (a) Chapters 940 and 941.

19 (b) Section 942.08.

20 (c) Section 942.09.

21 (d) Chapters 943 to 948.

22 **SECTION 3.** 62.50 (13) of the statutes is amended to read:

23 62.50 (13) The chief discharging or suspending for a period exceeding 5 days  
24 any member of the force shall give written notice of the discharge or suspension to  
25 the member and, at the same time that the notice is given, and shall also give the

1 member any exculpatory evidence in the chief's possession related to the discharge  
2 or suspension. The chief shall also immediately report the same notice of the  
3 discharge or suspension to the secretary of the board of fire and police commissioners  
4 together with a complaint setting forth the reasons for the discharge or suspension  
5 and the name of the complainant if other than the chief. Within 10 days after the date  
6 of service of the notice of a discharge or suspension order the members so discharged  
7 or suspended may appeal from the order of discharge or suspension or discipline to  
8 the board of fire and police commissioners, by filing with the board a notice of appeal  
9 in the following or similar form:

10 To the honorable board of fire and police commissioners:

11 Please take notice that I appeal from the order or decision of the chief of the ....  
12 department, discharging (or suspending) me from service, which order of discharge  
13 (or suspension) was made on the .... day of ....., .... (year).

14 **SECTION 4.** 62.50 (14) of the statutes is amended to read:

15 62.50 (14) COMPLAINT. The board, after receiving the notice of appeal shall,  
16 within 5 days, serve the appellant with a copy of the complaint and a notice fixing  
17 the time and place of trial, which time of trial may not be less than ~~5~~ 60 days nor more  
18 than ~~15~~ 120 days after service of the notice and a copy of the complaint.

19 **SECTION 5.** 62.50 (16) of the statutes is amended to read:

20 62.50 (16) TRIAL; ADJOURNMENT. The board may grant the accused and or the  
21 chief shall have the right to an adjournment of the trial or investigation of the  
22 charges, for cause, not to exceed 15 days. In the course of any trial or investigation  
23 under this section each member of the fire and police commission may administer  
24 oaths, secure by its subpoenas both the attendance of witnesses and the production  
25 of records relevant to the trial and investigation, and compel witnesses to answer and

1 may punish for contempt in the same manner provided by law in trials before  
2 municipal judges for failure to answer or to produce records necessary for the trial.  
3 The trial shall be public and all witnesses shall be under oath. The accused shall  
4 have full opportunity to be heard in defense and shall be entitled to secure the  
5 attendance of all witnesses necessary for the defense at the expense of the city. The  
6 accused may appear in person and by attorney. The city in which the department is  
7 located may be represented by the city attorney. All evidence shall be taken by a  
8 stenographic reporter who first shall be sworn to perform the duties of a stenographic  
9 reporter in taking evidence in the matter fully and fairly to the best of his or her  
10 ability.

11 **SECTION 6.** 62.50 (17) (a) of the statutes is amended to read:

12 **62.50 (17) (a)** Within 3 days after hearing the matter the board, or a 3-member  
13 panel of the board, shall, by a majority vote of its members and subject to par. (b),  
14 determine whether by a preponderance of the evidence the charges are sustained.  
15 If the board or panel determines that the charges are sustained, the board shall at  
16 once determine whether the good of the service requires that the accused be  
17 permanently discharged or be suspended without pay for a period not exceeding 60  
18 days or reduced in rank. If the charges are not sustained the accused shall be  
19 immediately reinstated in his or her former position, without prejudice. The decision  
20 and findings of the board, or panel, shall be in writing and shall be filed, together with  
21 a transcript of the evidence, with the secretary of the board.

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

24 **62.50 (18) (a)** No chief officer of either department or member of the fire  
25 department may be deprived of any salary or wages for the period of time suspended

1 preceding an investigation or trial, unless the charge is sustained. No Except as  
2 provided in par. (b), no member of the police force may be suspended or discharged  
3 or suspended under sub. (11) or (13) without pay or benefits until the matter that is  
4 the subject of the ~~suspension or discharge~~ or suspension is disposed of by the board  
5 or the time for appeal under sub. (13) passes without an appeal being made.

6 **SECTION 8.** 62.50 (18) (b) of the statutes is created to read:

7 62.50 (18) (b) Following a discharge or suspension under sub. (11) or (13), no  
8 member of the police force is entitled to any salary or wages from the department  
9 pending an appeal of the discharge or suspension to the board of fire and police  
10 commissioners if charges relating to an offense are also pending against the member  
11 and such charges arose out of the same conduct or incident that serves as the basis  
12 for the discharge or suspension. If the charges against the officer are dismissed, or  
13 if the officer is found not guilty of the charges, the officer shall be reinstated and  
14 entitled to pay as described in sub. (22).

15 **SECTION 9.** 62.50 (19) of the statutes is amended to read:

16 62.50 (19) CHARGES BY AGGRIEVED PERSON. In cases where duly verified charges  
17 are filed by any aggrieved person with the board of fire and police commissioners,  
18 setting forth sufficient cause for the removal of any member of either of the  
19 departments, including the chiefs or their assistants, the board or chief may suspend  
20 such member or officer pending disposition of such charges. The board shall cause  
21 notice of the filing of the charges with a copy to be served upon the accused and shall  
22 set a date for the trial and investigation of the charges, following the procedure under  
23 this section. The board, or a 3-member panel of the board, shall decide by a majority  
24 vote and subject to the just cause standard described in sub. (17) (b) whether the  
25 charges are sustained. If sustained, the board shall immediately determine whether

1 the good of the service requires that the accused be removed, suspended from office  
2 without pay for a period not exceeding 60 days or reduced in rank. If the charges are  
3 not sustained, the accused shall be immediately reinstated without prejudice. The  
4 secretary of the board shall make the decision public.

5 **SECTION 10. Nonstatutory provisions.**

6 (1) On the effective date of this subsection the mayor of a 1st class city shall  
7 make 2<sup>1 or 4</sup> additional appointments to the board of fire and police commissioners under  
8 section 62.50 (1h) of the statutes, as affected by this act, such that the additional  
9 appointments are for terms that are consistent with the requirements, and with the  
10 terms of the existing commissioners, that are specified under section 62.50 (1h) of the  
11 statutes, as affected by this act.

12 **SECTION 11. Initial applicability.**

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

17 (2) The treatment of section 62.50 (1h) of the statutes, with regard to the  
18 training class required of members appointed to the board, first applies to a member  
19 who is appointed on the effective date of this subsection.

20 (END)